

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

EMETERIO G. ROA III,

Plaintiff,

v.

STATE FARM BANK, F.S.B.,

Defendant.

Civil Action No. 1:21-cv-00881-AJT-MSN

MOTION TO DISMISS
(With *Roseboro* Notice)

Defendant State Farm Bank, F.S.B. ("State Farm Bank" or "Defendant"), by counsel, for its Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), states as follows:

1. For the reasons set forth in the accompanying brief, all claims alleged against State Farm Bank in Plaintiff's Complaint are barred by the one-year statute of limitations prescribed by TILA, 15 U.S.C. § 1640(e)).

2. As alleged, this action was untimely filed after the expiration of the applicable one-year statute of limitations prescribed by 15 U.S.C. § 1640(e).

WHEREFORE, Defendant State Farm Bank, F.S.B. prays that this Honorable Court grant its Motion to Dismiss, and dismiss this action with prejudice.

STATE FARM BANK, F.S.B.

Date: September 2, 2021

By: /s/ Alexander S. de Witt
Alexander S. de Witt, Esq. (VSB # 42708)
FREEBORN & PETERS LLP
901 East Byrd Street, Suite 950
Richmond, VA 23219
Phone: (804) 644-1300
Direct: (804) 799-7790
Fax: (804) 644-1354
E-mail: adewitt@freeborn.com

ROSEBORO NOTICE AND WARNING

In accordance with *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) and Local Civil Rule 7(K) of the Eastern District of Virginia, the Plaintiff is hereby notified as follows:

- (1) The pro se party is entitled to file a response opposing the defendant's motion to dismiss. Any such response must be filed within twenty-one (21) days of the date on which the dispositive or partially dispositive motion is filed.
- (2) The Court could dismiss the action on the basis of the moving party's papers if the pro se party does not file a response.
- (3) The pro se party must identify all facts stated by the moving party with which the pro se party disagrees and must set forth the pro se party's version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury).
- (4) The pro se party is also entitled to file a legal brief in opposition to the one filed by the moving party.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of September, 2021, I electronically filed the foregoing MOTION TO DISMISS with the Clerk of this Court using the CM/ECF system, which will send notification of such filing to all filing users; and delivered a true copy of the foregoing MOTION TO DISMISS, by e-mail and by first-class United States mail, to Plaintiff Emeterio G. Roa III, 201 South Irving Street, Arlington, VA 22204, e-mail: e.roa@att.net.

/s/ Alexander S. de Witt
Alexander S. de Witt, Esq. (VSB # 42708)
FREEBORN & PETERS LLP
901 East Byrd Street, Suite 950
Richmond, VA 23219
Phone: (804) 644-1300
Direct: (804) 799-7790
Fax: (804) 644-1354
E-mail: adewitt@freeborn.com